

## **Department of Planning and Budget**

### **2019 Fiscal Impact Statement**

**1. Bill Number:** SB1751

**House of Origin**    ☐ Introduced    ☒ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Ruff

**3. Committee:** General Laws and Technology

**4. Title:** Department of Professional and Occupational Regulation.

**5. Summary:** Authorizes the dissemination of criminal history record information to the Department of Professional and Occupational Regulation (DPOR) for the purpose of investigating individuals for initial licensure, certification, or registration. Under current law, DPOR has that authority only for the initial licensure of real estate brokers and salespersons. The bill permits the Director of DPOR, or his designee, to issue a notice to any person unlawfully engaging in unlicensed practice of an occupation to cease and desist such activity. The bill provides that following the close of any biennium, when the account for any regulatory board within DPOR shows that moneys collected on behalf of the regulatory board exceed 20 percent or \$100,000, whichever is greater, of the expenses allocated to the regulatory board for the past biennium, the regulatory board shall (i) reduce the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses and (ii) distribute all unspent or unencumbered revenue in excess of such limits to current regulants of the board. Under current law, these boards are required to adjust their fees when their account shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than moneys collected on behalf of the board. Current law does not require the boards to distribute excess funds to regulants. The bill requires the Director of DPOR to report, at least annually, the fund status of each of the regulatory boards to the members of such boards. The bill also provides that when any legislative bill requiring DPOR to increase or begin regulation of an occupation is filed during any session of the General Assembly, the Board for Professional and Occupational Regulation shall prepare an evaluation of the legislation using criteria outlined in current law that the Board is required to use whenever the Board determines that a particular occupation should be regulated or that a different degree of regulation should be imposed on a currently regulated occupation. The bill deregulates residential building energy analysts and natural gas automobile mechanics and technicians. The bill includes that the provisions of the first enactment amending § 54.1-113 shall become effective on July 1, 2022.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Preliminary. See Item 8.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	\$0	0	NGF
2020	\$337,731	1.0	NGF
2021	\$335,528	1.0	NGF
2022	\$335,528	1.0	NGF
2023	\$335,528	1.0	NGF
2024	\$335,528	1.0	NGF
2025	\$335,528	1.0	NGF

**7b. Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	0	n/a
2020	(\$13,540)	NGF
2021	(\$9,640)	NGF
2022	(\$13,540)	NGF
2023	(\$9,640)	NGF
2024	(\$13,540)	NGF
2025	(\$9,640)	NGF

- 8. Fiscal Implications:** This bill changes the administrative, enforcement, and regulatory responsibilities of the Department of Professional and Occupational Regulation (DPOR) in several ways according the various aspects of the bill. The bill implements recommendations of the Joint Legislative Audit and Review Commission (JLARC) report on Department operations and performance, dated October 9, 2018.

a) The bill authorizes the dissemination of criminal history record information to DPOR for the purpose of investigating individuals for initial licensure, certification, or registration. This will permit DPOR to request criminal history record information from the Virginia State Police for every individual applicant. Based on the 13,587 individual applications for licensure, certification, and registration received in FY2018 and a cost of \$15 per criminal history record, total costs are expected to be approximately \$203,805 annually. (These figures do not include initial applicants for real estate and real estate appraiser licenses because criminal history record information for those individuals is already obtained by DPOR's exam vendor as a result of other state and federal statutory mandates.)

b) The bill permits the Director of DPOR, or his designee, to issue a notice to any person unlawfully engaging in unlicensed practice of an occupation to cease and desist such activity. Any additional tasks required to implement this change can be absorbed by current operations and is considered immaterial.

c) The bill requires DPOR to distribute all unspent or unencumbered revenue in excess of \$100,000 or 20 percent of the total expenses allocated to the regulatory board for the past biennium, whichever is greater, to current regulants and to reduce the fees for certification, licensure, registration, or permit and renewal so that the fees are sufficient but not excessive to cover expenses.

The fiscal impact resulting from distributing excess funds is indeterminate and will depend on the number of regulants receiving a distribution payment. In circumstances when boards have excess funds, the DPOR would need to issue checks to each regulant. DPOR anticipates incurring administrative costs associated with staff time, and for postage and mailing materials. DPOR estimates each check issued to a regulant may cost the department \$5.00, including staff time and postage. The total cost, including staff time and postage, will depend on the number of checks issued by the agency.

The bill includes that the provisions of the first enactment amending § 54.1-113 shall become effective on July 1, 2022.

d) The bill requires the Director of DPOR to report, at least annually, the fund status of each of the regulatory boards to the members of such boards. No fiscal impact is expected from this portion of the bill.

e) The bill requires the Board for Professional and Occupational Regulation (Board) to prepare an evaluation of any legislation that increases or begins regulation of an occupation that is or will be under the responsibility of DPOR. DPOR staff would be required to complete extensive research, collect data, and prepare a report for the Board to consider, adopt, and issue the final evaluation. The Board will then forward the reports to the Clerk of the House of Delegates for transmittal to each patron of the legislation and to the chairman of each committee of the General Assembly.

One classified Policy Planning Specialist is needed to complete extensive research, collect data, and prepare evaluation reports for Board review and approval. The cost of salary and benefits for the position, based on the mid-point for the Band 5 salary range is expected to be \$110,326 in FY 2020 (assuming 23 pay periods) and \$115,123 annually beginning in FY 2021. This is a recurring cost that will continue into future years. DPOR will need to purchase furniture and equipment for the new position at an estimated cost of \$7,000. This is a one-time expenditure that will not continue into future years. Other operating costs beginning in FY 2020 and recurring in future years include telephone, employee development, computer operating support, and supplies. These costs are estimated at \$16,600 each year.

It is anticipated that the Board for Professional and Occupational Regulation will conduct at least two additional meetings annually. DPOR can absorb the related costs for the board meetings within current resources.

f) There is no fiscal impact resulting from the deregulation of natural gas automobile mechanics and technicians as no individuals have applied for this voluntary certification since the legislature established the program in 2014. An advisory board was formed but does not meet. DPOR has incurred no costs and brought in no revenue associated with this program.

g) The bill deregulates residential building energy analysts. The Board for Contractors regulates residential building energy analysts. As a result of deregulation, immaterial decreases in expenditures are expected by the Board for Contractors.

Revenues impact: The deregulation will result in a decrease in revenue of Contractors by \$13,540 in FY 2020, and \$9,640 in FY 2021. Similar revenue reductions would continue into future years. The reductions are based on the number of regulants projected to apply and renew multiplied by the application and renewal fees currently in regulation.

Other Impacts: Regulants may pay application or renewal fees prior to the July 1, 2019 enactment for licenses that are not issued or are effective for a short duration. Refunds could be necessary to such regulants at the estimated cost of \$5.00 per check. Total refund costs are dependent on the number of refunds issued and are indeterminate.

The Division of Legislative Services indicates that it can absorb any costs associated with implementing the provisions of this bill.

It is anticipated that that this bill will not result in a fiscal impact to the Department of Accounts or the Department of the Treasury as the bill places all administrative responsibilities on DPOR.

It is anticipated that this bill will not result in a fiscal impact to the Virginia State Police.

**9. Specific Agency or Political Subdivisions Affected:** Department of Professional and Occupational Regulation; Division of Legislative Services; Department of Accounts; Department of the Treasury; Virginia State Police.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.